

Worksession

Agenda Item #	5
Meeting Date	October 15, 2007
Prepared By	Barbara B. Matthews City Manager
Approved By	

Discussion Item	Proposed Amendment to the Sanctuary Law
Background	<p>Takoma Park's sanctuary law was enacted in 1985 to protect numerous refugees from El Salvador and Guatemala from being deported to their homelands, which were in a state of civil war. The law provides as follows:</p> <p>9.04.010 No City enforcement of immigration laws.</p> <p><i>A. No agent, officer or employee of the City, in the performance of official duties, shall assist or cooperate with the Immigration and Naturalization Service of the United States in the investigation or arrest of any persons for civil or criminal violation of the immigration and nationality laws of the United States.</i></p> <p><i>B. Except for subsection (A) of this section, this chapter does not prohibit the Takoma Park Police Department from carrying out its mandated duty to apprehend violators of the criminal law, nor does it prohibit police contact with any Federal agency other than the Immigration and Naturalization Service in connection with criminal or suspected criminal activity.</i></p> <p>9.04.020 No inquiries into citizenship.</p> <p><i>No agent, officer or employee of the City, in the performance of official duties, shall make any inquiry about citizenship or residency status of any person seeking to enforce rights or obtain benefits or discriminate in the enforcement of rights or the granting of benefits on such bases, unless Federal or Maryland law so requires for the determination of eligibility of benefits. The City administers no program which requires such inquiry.</i></p> <p>9.04.030 No release of information about citizenship status.</p> <p><i>No agent, officer or employee of the City, in the performance of official duties, shall release to the Immigration and Naturalization Service any information regarding the citizenship or residency status of any City resident.</i></p> <p>The Immigration and Naturalization Service is now called the Bureau of Immigration and Customs Enforcement ("ICE") and is part of the Department of Homeland Security.</p> <p>In December 2001, the Immigration and Naturalization Service began including aliens subject to criminal or civil deportation orders in the National Crime Information Center (NCIC) database, a database maintained by the federal government that is routinely accessed by local law enforcement officers. Currently, the NCIC database includes three categories of immigration violators:</p> <ul style="list-style-type: none"> • Persons who have been convicted of a felony and deported;

	<ul style="list-style-type: none"> • Persons who are the subject of an Administrative Warrant of Removal from the United States for civil or criminal violations of the Immigration and Nationality Act, commonly referred to as “absconders”; and, • Violators of the National Security Entry/Exit Registration System (NSEERS), which is a system that facilitates the monitoring of individuals deemed to present an elevated national security concern. <p>The presence of a previously convicted and deported felon in the United States constitutes a felony punishable by up to 20 years in prison. There may or may not be a criminal warrant issued for such a person. The warrants issued for absconders can be either criminal warrants or civil warrants. The warrants issued for NSEERS violators are civil warrants. Civil warrants are issued by ICE officials, rather than by independent judges.</p> <p>In accordance with the City’s sanctuary law, the Takoma Park Police Department neither inquires nor records information about individuals’ immigration status. Takoma Park officers do not serve ICE orders, detainers, or warrants for violations of immigration or naturalization laws. If an officer receives such a “hit” while accessing the NCIC database, he/she takes no further enforcement action based solely on the "hit." The sanctuary law does not restrict officers from arresting individuals who are suspected of criminal activity or who have an outstanding non-immigration related criminal warrant, even if the person is also identified as an immigration violator in the NCIC database.</p> <p>Chief Ricucci has requested that the Takoma Park City Council review the current across-the-board prohibition on cooperation in the enforcement of immigration laws, citing public safety concerns. The proposed amendment would preserve the major tenets of the sanctuary law but would allow Takoma Park police officers to arrest persons identified as deported felons on the NCIC database whom they become aware of in the course of performing their duties. The deported felon category of the NCIC database includes only persons who have been convicted of felony drug trafficking, felony firearms trafficking, or a serious violent crime, were deported after serving their sentence, and have reentered the United States without permission and are in violation of Title 8, USC, Section 1326. The proposed amendment would continue to prohibit Takoma Park police officers from accessing the NCIC database solely for the purpose of determining whether a person is a deported felon or for any other immigration related purpose.</p> <p>In addition to the aforementioned proposed amendment requested by Chief Ricucci, the City Attorney’s Office has recommended that other provisions of the existing sanctuary law be amended and strengthened in light of changes in federal law.</p>
Policy	The City Council is the policymaking making body for the City of Takoma Park. Any change to the existing sanctuary law must be made by a two-reading ordinance.
Fiscal Impact	None
Attachments	None

Recommendation	Staff requests that the Council discuss whether or not the City's sanctuary law should be amended to allow Takoma Park police officers to investigate the basis of any deportation order that they become aware of in the course of performing their duties and to arrest any person who has been convicted of a felony and listed as a deported felon on the NCIC database.
Special Consideration	